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November 1, 2010

**Via ECF**

Hon. Kiyo A. Matsumoto  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: *Thomas Wolf v. Miller's Launch, et al.* ("Personal Injury Action")  
Civil Action No: 08 Civ. 3636 (KAM) (RER)**

***In Re Miller's Launch, Inc.* ("Limitation of Liability Action")  
Civil Action No: 08 Civ. 4799 (KAM) (RER)**

Dear Judge Matsumoto:

We represent plaintiff/claimant Thomas Wolf in these two (2) consolidated actions. We respond to the November 1, 2010 letter of Lawrence J. Bowles, attorney for Godzilla Ocean Ltd. and First Marine Service Co (collectively the "Shipowner Defendants").

Throughout this litigation, Mr. Bowles continues to burden this Court and other parties with picayune requests for judicial intervention without attempting to work out a reasonable, common-sense solution. See, e.g., Docket Entry 53. Unfortunately, his latest submission continues this practice.

By way of background:

- (1) Discovery completion and pre-motion letters regarding dispositive motions were to be accomplished by October 22, 2010 (Docket Entry 55).
- (2) By October 19, 2010 Letter Motion (Docket Entry 56), 3 days before the discovery cut-off, the Shipowner Defendants requested a discovery

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conference to enforce a Request for Production and Notice of Rule 30(b)(6) deposition belatedly served upon defendant Miller Launch.

- (3) By October 20, 2010 letter, Mr. Bowles requested the Court "to defer his request for a discovery conference for the moment," pending his receipt of discovery responses. Mr. Bowles stated that "the parties reserve their rights and defenses."
- (4) By Order entered October 21, 2010, the Court (Reyes, Mag. J.) extended discovery beyond October 22, 2010 to allow resolution of these issues. To date, I have received no advice whether Mr. Bowles intends to press his clients' discovery motion and apparently, discovery still remains open.
- (5) Pursuant to the Court's October 25, 2010 Order (Matsumoto, J.), all attorneys conferred and today agreed on who should hear the motions. The only dispositive motion proposed by plaintiff Wolf seeks relief identical to a dispositive motion proposed by the Shipowner Defendants—*viz.* dismissing the limitation of liability claim of defendant Miller Launch. Defendant Miller Launch intends to file no dispositive motions. Although I advised Mr. Bowles of Mr. Wolf's intention to move for certain relief—including the identical dispositive motion along with several non-dispositive motions—after the October 22, 2010 deadline, because discovery remained (and continues to remain) open after the October 22, 2010 discovery cutoff, we believed it was implied that the time for advising the Court of potential motions would likewise be extended pending discovery completion. In any event, the only dispositive motion proposed by Mr. Wolf is identical to one proposed by Mr. Bowles' clients.

Mr. Bowles sought to advise the Court today that only his clients' motions would be considered at all, to which we and Miller Launch's attorney objected. It is difficult to fathom Mr. Bowles' objection given that the only other dispositive motion by any other party seeks identical relief to one of his proposed motions. Where is the prejudice to the Shipowner Defendants? In any event, by way of compromise, we proposed advising the Court as to who would consider all proposed motions, with Mr. Bowles reserving his rights regarding the timeliness of other parties' motions. This reasonable solution was apparently rejected by Mr. Bowles. We hope the foregoing has assisted the Court and are available to discuss should the Court so direct.

Respectfully,

Andrew V. Buchsbaum

AVB:eso

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cc: **By ECF**

Hon. Ramon E. Reyes, Jr., United States Magistrate Judge

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